

RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
on this date of: 4-27-01 *JH*

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF A DISCIPLINARY
ACTION AGAINST THE LICENSE OF

Jeffrey Brant, D.V.M.
License No. VI004355

TO PRACTICE AS A VETERINARIAN
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL DECISION AND ORDER
AFTER UPL EXPLANATION

This matter was opened to the New Jersey Board of Veterinary Medical Examiners (hereinafter the "Board") on an investigation of a complaint filed by the New Jersey Veterinary Medical Association (hereinafter NJVMA) against respondent, Jeffrey Brant, D.V.M. (hereinafter "respondent"). On December 21, 2000, the Board received from NJVMA a letter with a copy of the advertisements circulated by respondent. NJVMA questioned whether respondent's advertisements contained any violations. The Board reviewed the letter and the advertisements which were referred to by NJVMA. The complaint/investigation revealed probable violations of N.J.A.C. 13:44-4.8(f) and N.J.A.C. 13:44-4.8(e)(2).

On March 13, 2001, a Uniform Penalty Letter (hereinafter "U.P.L.") was sent to respondent setting forth the initial findings of the Board and offering respondent the opportunity to settle this matter by acknowledging the violations and paying a civil penalty in the aggregate amount of \$750 for the above violations of N.J.A.C. 13:44-4.8. Specifically, the U.P.L. reflects the following:

1. A civil penalty for the failure to provide the name of at least one licensee who is responsible for the provision of the advertised services for the advertisement in the PetSmart circular for the Banfield Pet Hospital at each location which is in violation of N.J.A.C. 13:44-4.8(f) and

2. A civil penalty for the failure to provide a fixed or stated range of fees against which the "free exam" is to be applied for the advertisement in the telephone book yellow pages which is in violation of N.J.A.C. 13:44-4.8(e)(2).

In addition, the letter directed respondent to cease and desist from advertising in such manner.

Alternatively, respondent was given the option of either requesting a hearing before the Board or submitting a written explanation and waiving respondent's right to a hearing. Waiving the right to a hearing, respondent elected to submit a written explanation in which respondent maintained:

a. The advertisement in the PetSmart circular failed to include the name, address and telephone number of the licensee who is responsible for the advertisement for the Banfield Pet Hospital at the Woodbridge facility. Although respondent admitted that this omission was a violation of the law, he asserted that through no fault of his own, the advertising agency accidentally excluded the requisite information on the advertisement.

b. Respondent states that he is actively trying to correct the error concerning the failure to include the name of the licensee responsible for the advertisement and requests dismissal of this

charge be granted since he purportedly was not responsible for the omission of such information he did not pay for the PetSmart circular.

c. Respondent understands that when advertising a discount or fee reduction, the law requires setting forth a fixed or stated range of fees that the discount is to apply. Respondent contends that the advertisement in the yellow pages does not contain such a violation since the "Free Exam" can be used by first-time clients when the clients mention the advertisement. Respondent asserts that setting forth a range of fees would not clarify the value of the offer because the cost to a consumer meeting the conditions of the offer is simple to ascertain, meaning zero dollars to the consumer.

At its meeting on March 28, 2001, the Board considered the complaint and respondent's explanation. With respect to charge of N.J.A.C. 13:44-4.8(f), the Board finds that respondent failed to include the required information of the licensee who was responsible for the advertisement in the PetSmart circular. Despite, respondent's contention that it was no fault of his own rather that of the advertising agency, respondent is presumed to have approved and is held responsible for the form and contents of the advertisement pursuant to N.J.A.C. 13:44-4.8(g). Additionally, with respect to the charge of N.J.A.C. 13:44-4.8(e)(2), the Board finds that respondent's advertisement in the yellow pages does not specifically delineate the stated range of fees for which the "free exam" is to be applied. Accordingly, the Board finds that respondent failed to conform to statutory and/or regulatory obligations as set forth in the U.P.L. and therefore, it concludes that the violations N.J.A.C. 13:44-4.8(f) and N.J.A.C. 13:44-4.8(e)(2) occurred.

Based on the foregoing:

IT IS on this 27th day of APRIL, 2001,

ORDERED that:

1. Respondent shall pay to the Board of Veterinary Medical Examiners a total of

\$778.23 which consists of a civil penalty in the amount of \$750 for the violations as set forth in the U.P.L. detailed above and costs in the amount of \$28.23 for the preparation of the Final Decision and Order. Said payment shall be made by certified check or money order payable to the State Board of Veterinary Medical Examiners and shall be delivered within ten (10) days of service of this Order to Diane Romano, the Executive Director at the Board of Veterinary Medical Examiners, P.O. Box 45020, Newark, New Jersey 07101. Failure to remit the payment required by this Order will result in the filing of a certificate of debt.

2. Respondent shall cease and desist from engaging in any of the conduct found herein to be unlawful.

NEW JERSEY STATE
BOARD OF VETERINARY MEDICAL EXAMINERS

By:



Carolyn Self, D.V.M.
President